

STATE OF CALIFORNIA

GRAY DAVIS, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS

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January 31, 2003

Dear Superintendent,

Newly enacted section 1771.7 of the California Labor Code requires school districts (so-called awarding bodies) undertaking construction projects using funds from the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 to initiate a specified labor compliance program (LCP) and ensure that workers employed by contractors on the projects are paid according to minimum labor standards.

This packet serves as notification of the new requirement and provides information and tools to help you comply with the new law and find technical assistance if your district needs it.

We want to make sure school district construction moves as efficiently as possible because it has assumed a larger role beyond the already significant one of providing California's children a decent education.

Enclosed you will find a program guidebook developed by private and public sector experts in school facilities construction from California school districts, the Office of Public School Construction of the California Department of General Services, the Coalition for Adequate School Housing, labor compliance program consultants and the Department of Industrial Relations. This guidebook can be used to help earn your LCP approval in a convenient manner. Here's how:

Please notice the guidebook contains a suggested application format under Appendix 1 for approval of your LCP. I encourage you to complete this form, and to consider adopting the labor compliance program contained in the enclosed LCP manual from the Antioch Unified School District. The AUSD's program has been recently approved. I believe its LCP manual could be a model for other districts because it contains the most up-to-date information about compliance with labor standards on public works projects. Please send that manual along with information requested in the application to the director of the Department of Industrial Relations. The address is contained in the application.

If you have further questions, please check the Department of Industrial Relations Web site at <http://www.dir.ca.gov/lcp.html> and then scroll down the middle column to view model programs established by the Los Angeles Unified School District, San Diego Unified School District and again, the Antioch Unified School District. The Department of General Services posts more information on its Web site at <http://www.schoolconstruction.dgs.ca.gov/> for public schools. Also please check Department of General Services Office of Public School Construction <http://www.opsc.dgs.ca.gov/>.

If you need immediate information, call Troy Fernandez at (415) 703-5070. For your convenience, the Department of Industrial Relations has established a special unit to help with labor compliance programs for public school districts.

Thank you in advance for your cooperation. We look forward to not only making sure these projects are completed in a timely and lawful fashion, but also to making your life easier.

Sincerely,

A handwritten signature in black ink that reads "Chuck Cake".

Chuck Cake
Acting Director
Enclosures

AB 1506 Labor Compliance Program Guidebook

February 2003

California Department of Industrial Relations

www.dir.ca.gov

Call (415) 703-4810 for more information or e-mail info@dir.ca.gov

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This guidebook is not intended to be used as a substitute for the full text of statutes and regulations which comprise the prevailing wage system, or the continually developing body of law which prevailing wage enforcement has generated over the past six decades and will continue to generate in the future. Rather, this information should be viewed as a framework for implementation of an effective LCP designed to enforce prevailing wage requirements consistent with the practice of DLSE.

These materials are intended to educate and assist those seeking approval of a labor compliance program. This information is not intended to replace the technical details in the labor code or California Code of Regulations. Please visit the Department of Industrial Relations' Web site (www.dir.ca.gov) for information about the laws and regulations governing this process.

Chapter 1

Introduction to Assembly Bill 1506, Statutes of 2002

Enacted as Labor Code Section 1771.7

INTRODUCTION

For more than 60 years, the California Labor Code has required that workers employed by contractors or subcontractors in the execution of public work contracts must be paid the state-determined prevailing wage. The public works chapter of the labor code, comprised of Labor Code Sections 1720 through 1861, details the prevailing wage system, explaining who the law protects, what contractors must do to comply with the law, what constitutes the prevailing wage, how it is determined, and how the prevailing wage requirements are enforced. The Labor Code Sections are supplemented by regulations published as Title 8 of the California Code of Regulations cited as 8 CCR 16000 et seq. Over the years, a body of law has developed containing interpretations of the statutes and the regulations. That body of law is in published decisions of state and federal courts and in certain administrative decisions designated as precedential.

The Division of Labor Standards Enforcement (DLSE), a part of the California Department of Industrial Relations (DIR), is the government agency primarily responsible for the enforcement of prevailing wage requirements on California public works projects. Since 1989, the Legislature has provided a statutory mechanism permitting political subdivisions of the state which award public works contracts (awarding bodies) to initiate and enforce their own labor compliance programs (LCPs) in conjunction with the DIR and the DLSE. The DIR director has the authority to grant or revoke approval of LCPs, and monitors the performance of LCPs in enforcing the prevailing wage system. The DLSE, through the Office of the Labor Commissioner, approves on a case-by-case basis the amounts of unpaid penalty and wage money assessed by LCPs against their public works contractors who have failed to comply with the prevailing wage laws. An approved LCP has a legal duty to the director to enforce prevailing wage requirements “in a manner consistent with the practice of DLSE.” (8 CCR 16434)

With the enactment of Labor Code Section 1771.7 (AB 1506) the Legislature is now requiring certain awarding bodies to initiate and enforce their own LCPs (or contract with a third party LCP) as a precondition to using funds from the Kindergarten-University Public Education Facilities Bond Act of 2002 (or 2004) for a public works project.

This guidebook was prepared by the DLSE and knowledgeable individuals in the private and public sector with a wide range of experience in school district issues, construction projects, public works and labor compliance. This guidebook is intended to facilitate requests to the DIR director from awarding bodies seeking approval of their own LCPs to conform to the requirements of Labor Code Section 1771.7.

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Chapter 2

Mandatory Requirements for Approval of a Labor Compliance Program

MANDATORY REQUIREMENTS

To be approved, a section 1771.7 labor compliance program must include the following:

- ▶ All bid invitations and public works contracts issued by the district shall contain appropriate language about the requirements of the public works chapter of the California Labor Code, comprised of Labor Code Sections 1720–1861.
- ▶ A pre-job conference shall be conducted with the contractor or subcontractors to discuss federal and state labor law requirements applicable to the contract.
- ▶ Project contractors and subcontractors shall maintain and furnish to the LCP, at a designated time, a certified copy of each weekly payroll with a statement of compliance signed under penalty of perjury.
- ▶ The LCP shall review and, if appropriate, audit payroll records to verify compliance with the public works chapter of the labor code.
- ▶ The LCP shall require the district to withhold contract payments when payroll records are delinquent or inadequate.
- ▶ The LCP shall require the district to withhold contract payments equal to the amount of underpayment and applicable penalties when the LCP establishes that underpayment occurred through an investigation.

LCP APPROVAL PROCESS

Attached in Appendix 1 is a recommended application form to be mailed to the director of the California Department of Industrial Relations (DIR). The form was developed to allow the director to determine whether the district seeking approval has the ability to operate its LCP in compliance with the requirements of Labor Code Section 1771.5(b). It also is a convenient way for LCPs to receive approval from the director. LCP officials only need to complete the application, adopt and attach the model program plan currently enclosed in this packet, and send it to the director.

The process of approving labor compliance programs is authorized and regulated by Title 8 of the California Code of Regulations, sections 16425–16439. Request for approval is a two-step process that includes initial approval for up to one year and then final approval.

Submissions to the California Department of Industrial Relations (DIR) will be accepted by the director of the Department of Industrial Relations and subsequently forwarded to the Division of Labor Standards Enforcement (DLSE) for review. The DLSE, under the leadership of the state labor commissioner, enforces labor laws that range from prevailing wage issues and labor standards to laws that govern the payment of wages.

The director will record the date of submission for approval and may take up to 30 days for review prior to determining if the proposal will be initially approved or denied. The director will inform the awarding body or third party administrator of the effective date of an approved LCP.

If denied, the director will inform the awarding body of the reasons for denial.

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Chapter 3

Benefits of a Labor Compliance Program

A comprehensive labor compliance program may result in the following:

Competitive bidding process integrity. When a comprehensive labor compliance program (LCP) is initiated and enforced, it prevents underbidding by contractors, or contractors who utilize subcontractors and who do not pay prevailing wages. Awarding bodies benefit from receiving a higher number of qualified bidders.

Regeneration of funds to the community. Ensuring that prevailing wage is paid to the workers employed on the project benefits the entire community by the regeneration of project funds back to the community.

Better labor relations. A strong labor compliance program is a sound approach to the promotion of responsible working conditions. Cooperation and communication among all constituencies interested in school construction offer the best long-term prospects for a sustained, positive labor and management relationship.

Successful contracts. Under an LCP, awarding bodies audit and enforce their contracts with contractors and subcontractors. This enables better scrutiny of construction projects, which helps to ensure the terms of the contract coincide with the awarding bodies' specifications.

Ability to hold penalties and contract payment. For a DIR-certified LCP, an awarding body may withhold contract payments for certain violations of the labor code and collect penalties against a contractor when it is established through an investigation that there has been an underpayment of wages. The awarding body also may withhold contract payments when payroll records are delinquent or inadequate.

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Chapter 4

The Prevailing Wage Law

An Overview for Labor Compliance Programs

AN OVERVIEW FOR LABOR COMPLIANCE PROGRAMS

- I. Who does the law protect?
 - A. All workers employed on public works (Labor Code Section 1771)
(includes employees, independent contractors, partners, sole proprietors, owner-operators)
 - B. Public workers defined
 1. Labor Code Sections 1720–1720.3
 2. Precedential public works decisions
 - C. Limited exemptions
 1. Work carried out by a public agency “with its own forces” (Labor Code Section 1771)
 2. Certain janitorial services/guards (8 CCR 16000)
- II. What must public works contractors do to comply with the law?
 - A. Maintain and furnish records (Labor Code Section 1776)
 - B. Pay the prevailing rate to all workers (Labor Code Sections 1771, 1774 AND 1813)
 - C. Comply with apprenticeship requirements (Labor Code Section 1777.5)
- III. What is the prevailing wage rate?
 - A. Published prevailing wage determinations
 - B. Process by which prevailing wage rates are established (Labor Code Sections 1773.1 and 1773.9; 8 CCR 16200–16300)
- IV. How does an LCP enforce the law?
 - A. Conduct investigations
 1. Monitor certified payroll records (CPRs), investigate complaints from workers, monitor agencies and contractors
 2. Prepare audits and findings
 - B. Obtain approval of recommended forfeitures from labor commissioner (8 CCR 16436-16437)
 - C. Issue and serve notices of withholding of contract payments (NWCPs) (Labor Code Section 1771.6)
 - D. Defend NWCPs in administrative review proceedings and in court (Labor Code Sections 1742-1743)
 - E. Collect and disburse wages and penalties (Labor Code Section 1743)

Note: All of the citations to the Labor Code Sections and the California Code of Regulations (CCR) noted above are available by accessing the California Department of Industrial Relations home page (www.dir.ca.gov) and links to that page. The Web site also includes the precedential public works decisions referenced in the above outline at IB(2), and the prevailing wage determinations referenced at IIIA.

OUTLINE EXPLANATION

The preceding outline was originally created as part of a training class for DLSE staff responsible for enforcing the prevailing wage law on public works projects. As a practical matter, the most important section of the outline for LCPs to consider is section IV, dealing with an LCP’s enforcement duties. Later chapters of this guidebook provide practical advice on how to conduct investigations, but LCP officials also must become familiar with three forms

which the DLSE has specifically developed for LCPs to utilize after an investigation has been completed and after the LCP has obtained case-by-case approval from the labor commissioner to withhold unpaid wages and penalties from a public works contractor. The three forms are attached as Appendices 2, 3 and 4 at the end of this guidebook.

Appendix 2, containing the form titled *Notice of Withholding of Contract Payments (NWCP)*, is to be completed by the LCP and served on the contractor, any affected subcontractor, and any bonding company issuing a bond securing payment of wages on the public works project. On page 2 of the NWCP, the contractor and subcontractor are advised of their right to obtain review of the LCP's monetary assessment by filing a written request for review at the address designated by the LCP in the space provided. The LCP should insert in this space the identity and address of the individual the LCP has assigned the tasks of receiving requests for review and, in turn, providing the party requesting review with the notices they are entitled to under the law. On page 3 of the NWCP, the contractor and subcontractor are advised of their opportunity to informally settle any dispute they may have with the LCP's monetary assessment. Again, the LCP should designate in the space provided the identity and address of the individual the contractor should mail their written requests to for a settlement opportunity. This individual may or may not be the same individual the LCP chooses to receive the written requests for review.

In the DLSE's experience, nearly all contractors and subcontractors will request at least a settlement meeting, and will likely request formal review once an NWCP has been served upon them. If there is no request for formal review, the assessment becomes a final order and the withheld funds can be disbursed.

As mentioned above, the LCP's receipt of a written request for review triggers an obligation on the part of the LCP to complete and mail the two other forms attached as Appendix 3 and Appendix 4.

Appendix 3 is a *Notice of Transmittal* that must be completed and timely mailed by the LCP to the Department of Industrial Relations at the address indicated. Under the NWCP administrative review process in the labor code, once the contractor or subcontractor has requested review of the NWCP, it is the task of the DIR to provide the contractor a hearing with a presiding hearing officer. Consequently, the *Notice of Transmittal* is the tool utilized by the LCP to notify the DIR of its statutory obligation to begin the administrative review process and provide the contractor requesting review a hearing.

Appendix 4 is another notice the LCP must complete and mail to the party requesting review once that request has been received by the LCP. This form, a *Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)*, simply satisfies the LCP's statutory obligation to let the contractor and subcontractor know the materials contained in the LCP's investigative file which support the LCP's issuance of the assessment will be made available.

LCP staff involved in the administrative review process, as well as the attorney or law firm representing the LCP, should become familiar with the prevailing wage hearing regulations at 8 CCR 17201-17270. These regulations also are available via links at www.dir.ca.gov. Briefly, the regulations comprise the rules that must be followed by LCPs and contractors throughout the administrative review process, beginning with service of the NWCP and ending with a final decision under the review system. The regulations are extremely detailed, but are helpful in understanding the review process.

Chapter 5

Labor Compliance Program Components

LABOR COMPLIANCE PROGRAM REQUIREMENTS PRIOR TO CONSTRUCTION

Advertisement for bid/construction contract. The call for bids and the contract or purchase order must contain language appropriate to the requirements of prevailing wage law as contained in Labor Code Sections 1771, 1775, 1777.5, 1813 and 1815. The first advertisement date of the project determines the applicable prevailing wages.

Pre-job conference. This meeting is to be held by the district before commencement of the work for contractors and subcontractors with accepted bids. The district representative at the meeting must be prepared to discuss and answer questions about requirements and procedures, including record keeping, wage determinations, apprenticeship requirements and required form filing. Information on paying training fees and giving notice to use registered apprentices should also be given out at the pre-construction meeting. Labor code sections 1777.5 and 1777.6 contain the instructions for hiring apprentices and the ratios to journey persons. A checklist showing which federal and state labor law requirements were discussed shall be kept for each conference. A sample checklist can be found in Appendix 6.

Payroll records. There must be a requirement in the program that certified payroll records be kept by the contractor in accordance with Labor Code Section 1776 and furnished to the awarding body at times designated in the contract or within 10 days of request by the awarding body.

Review. There must be a program for orderly review of payroll records and, if necessary, for audits to verify compliance with the statutory requirements.

Withholdings. There must be a prescribed routine for withholding penalties, forfeitures and underpayment of wages for prevailing wage violations.

Delinquency. All contracts to which prevailing wage requirements apply shall include a provision that contract payments shall not be made when payroll records are delinquent or inadequate.

Public works contract award form. The Public Works Contract Award Form (DAS 140) must be filled out by contractors and subcontractors with the appropriate apprenticeship box checked and sent to the appropriate local apprenticeship committee within five days of signing the contract. The district must have a copy of this form in the project file. A copy of this form can be printed from www.dir.ca.gov/DAS/DASForm140.pdf.

Proof of general liability and workers' compensation insurance. The district must require appropriate evidence of required insurance. The evidence should be a part of the permanent project file.

DOCUMENTATION AND FORMS REQUIRED DURING CONSTRUCTION

Payroll records. Each contractor and subcontractor is required by Labor Code Section 1776 to keep and maintain certified payroll reports.

All certified payroll reports are to be submitted to the district for review during the course of the contract and furnished to the district at times designated in the contract or within 10 days of the request by the awarding body. The certified payroll reporting form (A-1-131) can be obtained from any office of the Department of Industrial Relations' Division of Labor Standards Enforcement (DLSE) or downloaded from the Web site at www.dir.ca.gov/dlse/publicWorksPayrollInstructions.htm. If the contractor uses his/her own form, it must contain the following information:

- ▶ Employee full name, address and social security number.
- ▶ Work classification.
- ▶ Amount paid per hour. If payments are made to any third party trust, funds or plans for health and welfare, pension or vacation trusts, as part of the employer's prevailing wage obligation, then those payments should be indicated on the payroll report. The basic wage rate paid per hour plus the amounts contributed per hour for benefits, including training fund contributions, must at least equal the total prevailing rate required for that classification.
- ▶ Daily regular, overtime and holiday hours and weekly totals.
- ▶ Gross/net wages paid for this project/all projects.
- ▶ Contractor's full name and address.
- ▶ Project name and location.
- ▶ Dates of the payroll.
- ▶ Certification statement signed by a person with the authority to represent the company. This statement must declare under penalty of perjury that 1) the information contained in the payroll record is true and correct and 2) the employer has complied with the requirements of Labor Code Sections 1771, 1811 and 1815 for any work performed by his or her employees on the public works project.

It is important that each contractor write "final" on the last submitted payroll for the project.

The contractor must complete a non-performance report for each week in which no work is performed. All days worked on a project must be accounted for, including Saturdays, Sundays and holidays.

Statement of employer payments. The form, *Statement of Employer Payments* (PW 26), must be completed by each contractor and subcontractor who pays benefits to a third party trust, plan or fund for health and welfare benefits, vacation funds, or makes pension contributions. It must contain the fund or trust name, address, administrator, and amount per hour contributed and frequency of contributions for each classification of worker. Training fund contributions must be reported on this form. A copy of the form can be downloaded from www.dir.ca.gov/dlse/DLSEForm-PW26.pdf.

Payroll rate verification. The district must acquire and review new prevailing wage rates at least twice yearly through the Department of Industrial Relations' Division of Labor Statistics and Research or from the Web site at http://www.dir.ca.gov/DLSR/statistics_research.html. Payrolls should be checked to make sure the new rates are in effect for each trade. New determinations are published in February and again in August. The rates go into effect the day after the expiration date on the determination.

JOB SITE MONITORING

Workforce documentation. The district must keep a daily record of all workers at the job site. Job classifications should be included. The district may also request that the inspector of record (IOR) include this information in the daily report form.

All prime contractors should be required to submit a prime contractors daily superintendent report with workers and their classifications listed on site for the day.

Random onsite inspections. Onsite, random inspections must be conducted on a regular basis to observe, interview workers and check hourly wage and classifications.

CLOSE-OUT DOCUMENTATION AND PROCEDURES

Final payroll. The district must verify project payrolls have been submitted by each prime contractor or sub-contractor. The final payroll from each must be marked “final” by the contractor.

Final release of funds. Prior to final release of the funds, the payroll monitor for the district and the contract administrator review the log to verify all documentation has been received.

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Chapter 6

Labor Compliance Investigation

In addition to monitoring all certified payroll records provided by the contractors, the LCP must investigate worker complaints of underpayment of prevailing wage rates. The major components and tasks related to this responsibility are as follows:

- ▶ Gather supporting documents from all available sources and analyze for authenticity.
- ▶ Conduct a complete certified payroll record (CPR) and/or project audit. Review CPRs for errors, inconsistencies, discrepancies, falsification, misclassification, under-reporting, and any other omissions that render the records inaccurate where needed by comparing the inspector of records daily log with all available records.

On an as-needed basis according to the circumstances and issues that may arrive:

- ▶ Calculate back wages and penalties using the proper wage determinations and trade classifications pursuant to the Department of Industrial Relations' Division of Labor Statistics and Research (DLSR) directives and records.
- ▶ Review findings with contractor/subcontractor.
- ▶ Write a complete summary of investigation with a statement of finding and recommended action for submission to the Department of Industrial Relations' Division of Labor Standards Enforcement for approval of withholdings.
- ▶ Conduct settlement negotiations.
- ▶ Testify on behalf of the school district in appeal hearings and in litigation.
- ▶ Attend pre-bid and job-start meetings and monitor active construction projects.
- ▶ Interview workers to validate complaints.

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Chapter 7

Guidelines for Prevailing Wages

Labor code section 1771 requires that workers receive the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and the general prevailing rate of per diem wages for holiday and overtime work.

Prevailing wage rate determinations. The law requires that workers on a publicly-funded project must be paid the prevailing wage of the area in which the project is located. Prevailing wage rates are established by the director of the Department of Industrial Relations by various methods, and these rates are made available to the district, contractors, workers and the general public by the department's Division of Labor Statistics and Research (DLSR) or on their Web site at www.dir.ca.gov/DLSR/statistics_research.html. The rates are published twice each year as prevailing wage determinations. Some trades are issued regionally (northern or southern California) and other subtrades are issued by county in which the project is located.

Each wage determination for each classification of worker will indicate the basic wage rate and fringe benefit amounts which equal the total required wage for each classification of worker for straight time and overtime work.

If you need help with a special or unknown classification, you can submit a written request to the DLSR and they will make a determination.

The contractor is obligated to pay the full prevailing rate of per diem wages. He/she, however, may take credit for amounts up to the total of fringe benefit amounts listed as prevailing in the determination. The credit may be taken only for amounts which are actual payments as defined under the Employer Payments Section CCR 16000(1)–(3). If the total of employer payments for the fringe benefits listed is less than the aggregate amount in the wage determination, the contractor must pay the difference directly to the employee. No amount of credit for payments over the aggregate amount of employer payments shall be taken as a credit towards the hourly wage required to be paid.

The determinations indicate the amount required for straight-time work, overtime, holiday, and Saturday and Sunday work. There may be special requirements for the payment of overtime and Saturday/Sunday work, and these requirements will be indicated by footnotes. These footnotes should be examined carefully.

There are separate determinations issued for apprentices on public works. These footnotes should also be examined carefully.

Each wage determination will indicate when the determination will expire and whether the rate will increase during the project. A single asterisk after the expiration date indicates the rate is good for the life of the project.

A double asterisk after the expiration date indicates the rate for work performed after the expiration date has been determined. If work extends past that date, the new rate must be paid and should be incorporated in contracts entered into at the time of bid. Contact DLSR to obtain any predetermined increases.

Overtime. Work performed by employees on public works in excess of eight hours per day and 40 hours per week must be paid for at not less than one-and-one-half times the basic rate of pay (Labor Code Section 1815). Each wage determination will specify the wage rate required for overtime pay. Failure to pay the required rate will subject the contractor to a penalty of \$25 per worker per violation (Labor Code Section 1813).

Holidays. Work performed on certain holidays may require the payment of overtime or double time. A list of designated holidays for each craft or classification of labor can be found on the Division of Labor Statistics and

Research (DLSR) Web site at http://www.dir.ca.gov/DLSR/statistics_research.html. Each wage determination will specify the appropriate wage rate for holiday work.

Saturday/Sunday work. Most classifications of workers require the payment of overtime or double time for work performed on Saturdays and Sundays. Each wage determination will specify the required wage rate for this work. Pay attention to any footnotes that may contain exceptions or special requirements.

Travel/subsistence payments. Because the law requires that workers receive the general prevailing rate of per diem as part of the contractor's prevailing wage obligation, there may be a requirement to pay travel/subsistence. Many classifications require the payment of mileage or subsistence for traveling certain distances. These requirements are contained in the collective bargaining agreement on file with DLSR for each craft/classification of worker. You can download those requirements from the DLSR Web site at www.dir.ca.gov/DLSR/statistics_research.html.

Owner, operator, partners. The law prescribes that workers on a public works project receive prevailing wages. Owners, partners, owner-operators or officers of corporations performing labor on a prevailing wage project must be paid prevailing wage rates.

Chapter 8

Contractor's Responsibility for Certified Payroll

The district must make sure contractors on the project are aware of their responsibilities to pay prevailing wages. This is done through the language in the general conditions of the bidding documents, the contract language and the pre-job meeting.

A partial list of the requirements follows:

- ▶ The contract executed between the prime contractor and the subcontractor for the performance of work on the public works project contains provisions of Labor Code Sections 1771, 1775, 1777.5, 1813 and 1815.
- ▶ The prime contractor must monitor the specified determination rate of hourly wages paid by the subcontractor to employees by reviewing the payroll records of each subcontractor.
- ▶ Upon becoming aware of the failure of any subcontractor to pay workers the specified per diem wages, the prime contractor must halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project to cover the wage deficiency and;
- ▶ Before making final payment to the subcontractor for work performed on the public works project, the prime contractor must obtain an affidavit, signed under penalty of perjury, from the subcontractor, stating that he/she has paid the specified, determined prevailing wage rate of per hour wages to employees.
- ▶ The contractor must complete a non-performance report form when required. This form is completed when no work is performed on the project for a period of time. On the form the contractor states there was no payroll for a specific time period. All days for a project must be accounted for, including Saturdays, Sundays and holidays.
- ▶ Complete the *Statement of Employer Payments*. This form can be downloaded from www.dir.ca.gov/dlse/DLSEForm-PW26.pdf. It must be submitted at the time of bid acceptance. The prime contractor must inform the awarding body of any fringe benefit amounts paid on behalf of workers.
- ▶ In February and in August of each year during the project, verify changes in wage rates for the trade or classification used on the project. Send in a new statement of employer payments reflecting the changes in wages and/or fringes or training fees. It should be dated accordingly.

CONTRACTOR'S RESPONSIBILITIES TO APPRENTICES

In addition to the items above, there are additional requirements of the contractor regarding the use of apprentices (sections 1777.5 and 1777.6 of the California Labor Code):

- ▶ Notify the local apprenticeship committee of the award of a contract by submitting a copy of a *Division of Apprenticeship Standards (DAS 140)* form for the trades involved. A copy of this form can be printed from www.dir.ca.gov/DAS/DASForm140.pdf.
- ▶ Request the dispatch of apprentices.

- ▶ Only employ apprentices who have a written apprenticeship agreement registered with the state, (DAS). Apprentices must be employed according to the ratio set by the apprenticeship program standards, but not less than a 1-to-5 hour ratio, measured against the number of journey person hours worked by the contractor for that particular trade. This rule applies to all apprenticeable trades, in accordance with the rules and regulation of the California Apprenticeship Council (CAC).
- ▶ Pay the apprentices the correct wages and benefits.
- ▶ Pay to either an apprenticeship committee approved by the DAS or the CAC the apprenticeship fees listed on the wage rate determination for each hour of work for all journey persons and apprentices of that craft on the project.

PENALTIES

Failure to pay prevailing wages to every worker on the project may result in the contractor being prohibited from bidding on public works projects for three years. In addition, wages not paid become forfeitures and can be collected from the contractor. Fines of up to \$50 per day can also be assessed. The penalties are severe and range from misdemeanors to felonies (labor code sections 17775–1777). Although the fundamental obligation to pay prevailing wage rates rests with the contractor, ensuring payment also is important to the district.

Failure to pay required overtime wages will result in the assessment of \$25 per worker per violation.

It is against the law for an employer or other person to accept any compensation from workers on a prevailing wage project. Anyone found guilty of accepting fees, bribes or any other form of compensation or kickbacks from a worker on a prevailing wage project is guilty of a felony. Any person or company that attempts to charge a fee for registration or information about public works employment is guilty of a misdemeanor.

Chapter 9

Audit, Investigative and Enforcement Responsibilities

INTRODUCTION

Audit, investigative and enforcement responsibilities are the most challenging aspects of operating a labor compliance program. If these responsibilities are approached objectively and consistently, however, the challenges are far less daunting.

Audits should be conducted on a random or as-needed basis. An audit is the comparison of certified payroll records (CPRs) to records or documents maintained independent of CPRs or those records used to gather the information contained in CPRs. These are usually referred to as source documents and include but are not limited to front and back copies of cancelled checks, time cards, copies of pay check stubs, payroll registers, personnel sign in sheets, daily logs and any other document which authenticates or corroborates that which has been reported.

Investigative activities are the duties and tasks engaged in to verify the payment of prevailing wage rates upon receipt of a complaint or in conducting an audit of records. Prior to filing a *Notice of Withholding of Contract Payments* (see Appendix 2), a school district must demonstrate a thorough and objective investigation took place.

Consequently, all activities aimed at verifying a complaint or the accuracy of records must be documented and maintained in the event of an appeal or litigation.

Enforcement responsibility is extended to agencies by the Division of Labor Standards Enforcement (DLSE) that operate an LCP according to Labor Code Section 1771.5. Enforcement encompasses activities that result in compliance with requirements to pay prevailing wage rates on public works projects. The most common aspect of enforcement is the assessment of penalties and the withholding of back wages owed to workers. It is of utmost importance to develop a fair and objective philosophy and criteria for enforcement and then consistently apply this criterion to each case. The most effective criteria for enforcement are simple written statements with the consequences of the failure to comply clearly stated.

Below is an outline of critical steps for document collection, which should be routinely applied in every prevailing wage violation case and particularly for those cases that lead to the filing of a *Notice of Withholding of Contract Payments* (see Appendix 2).

CASE PREPARATION AND DOCUMENTATION GUIDELINES

- ▶ **Copy of worker complaint**
 - Notes from worker interview.
 - Calendar of dates and hours worked.
 - Copies of check stubs or other form of proof of underpayment.
 - Document all attempts to authenticate the complaint.
 - Other supporting documentation where necessary.
- ▶ **Copy of all correspondence to contractor**
 - Job-start meeting checklist.
 - Initial notification of complaint.
 - Invitation to review the preliminary findings.

- Request for additional documentation such as canceled checks, check stubs, time cards, cash receipts, ledgers, etc.
- Log of all calls to contractor with notes about the content of discussion.

▶ **Certified payroll records**

- For the period of time covered in the complaint and the corresponding audit.

▶ **Inspector's daily log**

- Or another detailed record of work performed by date and the numbers of workers on project.
- For the period of time covered in the complaint.

▶ **Correct prevailing wage determination and applicable increases**

- For each classification appearing in the audit.

▶ **Scope of work for trade classifications used**

- From Division Labor Statistics and Research (DLSR).

▶ **Tabulation of bids**

- Advertisement date(s).
- List of subcontractors.
- Contract award amounts.
- Description of project.

▶ **Notice to proceed**

- Official project start and completion dates.
- Duration of project.

▶ **Notice of completion (if applicable)**

- With date stamp showing when it was recorded.
- Any withholding or action must take place within 180 days from the date of recording.
- Another 180 days is granted beyond this date if funds are still available in contract.

▶ **Surety company information**

- The surety is entitled to receive a copy of any action taken or Notice of Withholding of Contract Payments filed.

▶ **Contractor's previous record of violations (if applicable)**

- Formal actions and withholdings.
- Informal actions and withholdings.

▶ **The Notice of Withholding of Contract Payments (if applicable)**

- Always attach a copy of the audit spreadsheet.

▶ **Release of Notice of Withholding of Contract Payments (if applicable)**

- Returns withheld funds.
- Filed when a case is settled in whole or part.
- Filed when it is determined the violation did not occur.

▶ **Memo to file**

- Explains circumstances and reasons for case closure without action.
- Provides explanation and reasons for settlement and spells any agreements reached with contractor or other parties.

Chapter 10

Contact and Resource Information

DEPARTMENT OF INDUSTRIAL RELATIONS

For labor compliance program information when you have a question on the components of a LCP:

- ▶ Troy Fernandez: (415) 703-5070
- ▶ Debbie Jimenez: (415) 703-4810
- ▶ E-mail: info@dir.ca.gov

Requests for information are encouraged to be in writing or faxed to:

- ▶ Department of Industrial Relations
Division of Labor Standards Enforcement
Labor Compliance Programs
Attn: Debbie Jimenez
455 Golden Gate Avenue, 9th floor
San Francisco, CA 94102
- ▶ Fax: (415) 703-4807
- ▶ Art Lujan, Labor Commissioner,
contact: Debbie Jimenez (415) 703-4810

For California labor compliance program information when you have a question on the components of a LCP or on the labor code:

- ▶ **Division of Labor Standards Enforcement**
Susan Nakagama, Regional Manager ... (562) 499-6308
Lauro Cons, Senior Deputy (213) 897-4231
Tom Fredericks, Attorney (562) 590-5461
Contact: Lisa Cervantes (562) 499-6311

When you have questions about classifications and scope of work (headquarters and library address):

- ▶ Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th floor
San Francisco, CA 94102

Telephone number/Web site:

- ▶ Telephone: (415) 703-4780
- ▶ www.dir.ca.gov/DLSR/statistics_research.html

When you have questions about prevailing wage determinations or special determinations for a specific project (headquarters and library address):

- ▶ Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th floor
San Francisco, CA 94102

Telephone numbers/Web site:

- ▶ Telephone: (415) 703-4780
- ▶ Hotline: (415) 703-4774
- ▶ Fax: (415) 703-4771
- ▶ www.dir.ca.gov/DLSR/statistics_research.html

Mailing address:

- ▶ Department of Industrial Relations
Division of Labor Statistics and Research
PO Box 420603
San Francisco, CA 94142

When you need to verify the status of an individual apprentice or an apprenticeship program:

- ▶ Division of Apprenticeship Standards
455 Golden Gate Avenue, 8th floor
San Francisco, CA 94102

Telephone numbers:

- ▶ Telephone: (415) 703-4920
- ▶ Fax: (415) 703-5477

HELPFUL WEB SITES

- ▶ California Apprenticeship Council www.dir.ca.gov/CAC/cac.html
- ▶ Department of General Services, Office of Public School Construction www.opsc.dgs.ca.gov
- ▶ Department of Industrial Relations www.dir.ca.gov
- ▶ Division of Labor Statistics and Research www.dir.ca.gov/DLSR/statistics_research.html
- ▶ Division of Labor Standards Enforcement www.dir.ca.gov/DLSE/dlse.html
- ▶ Division of Apprenticeship Standards www.dir.ca.gov/DAS/das.html
- ▶ Northern California Basic Trade Journeyman Rates www.dir.ca.gov/DLSR/PWD/index.htm

FORMS

- ▶ Notice of Withholding of Contract Payments Appendix 2
- ▶ Notice of Transmittal Appendix 3
- ▶ Notice of Opportunity to Review Evidence Appendix 4
- ▶ Public Works Contract Award Form DAS 140 www.dir.ca.gov/DAS/DASForm140.pdf
- ▶ Certified Payroll Reporting Form A-1-131 [www.dir.ca.gov/dlse/
publicWorksPayrollInstructions.htm](http://www.dir.ca.gov/dlse/publicWorksPayrollInstructions.htm)
- ▶ Statement of Employer Payments of PW 26 www.dir.ca.gov/dlse/DLSEForm-PW26.pdf
- ▶ California Apprenticeship Council 2 Training Fund Contributions www.dir.ca.gov/DAS/DASCAC2.pdf

LAW CODES

Law codes must be obtained from the Internet or the Department of Industrial Relations.

- ▶ California Code of Regulations ccr.oal.ca.gov/

Relevant Code Sections:

Division 1. Department of Industrial Relations

Chapter 8. Office of the Director

Subchapter 4. Awarding Body Labor Compliance Programs

- Article 1. Applicable Dates for Enforcement of Awarding Body Labor Compliance Programs (Section 16425)
- Article 2. Approval and Revocation of Approval of Labor Compliance Programs by Director (Section 16426–16428)
- Article 3. Notice and Components of LCP (Section 16429–16432)
- Article 5. Enforcement (Section 16434–16439)
- Article 6. Severability (Section 16500)
- Article 8. Debarment (Section 16800–16802)
- Appendix A, Appendix B and Appendix C

- ▶ California Labor Code www.leginfo.ca.gov

Relevant Code Section:

Labor Code Section 1771.5 – Labor Compliance Programs

Appendix 1 Application for Initial Approval

The following form is the recommended format of an application to the Director for initial approval of a Labor Compliance Program (Labor Code Section 1771.7).

The form was developed to allow the director to determine whether the district seeking approval has the ability to operate its LCP in compliance with the requirements of Labor Code Section 1771.5(b). It also is a convenient way for LCPs to receive approval from the director.

Entity/Awarding Body Seeking Approval:

Name

Address

Entity's/Awarding Body's Contact Person:

Name

Address

Phone

Fax

E-Mail

- A. Identify the two or more individuals employed by the entity/awarding body who will be primarily responsible for enforcing the Labor Compliance Program:

1. _____

Name

Title

Experience/training on public works/labor compliance issues:

(Attach additional sheets, if necessary.)

2. _____

Name

Title

Experience/training on public works/labor compliance issues:

(Attach additional sheets, if necessary.)

B. List all other staff who will be involved in LCP functions:

<u>Name</u>	<u>Title</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Attach additional sheets, if necessary.)

C. State the average number of public work projects the entity/awarding body annually administers:

D. State whether the proposed LCP is a joint or cooperative venture among awarding bodies, and, if so, how the resources and expanded responsibilities of the LCP compare to the awarding bodies involved:

(Attach additional sheets, if necessary.)

E. Describe the entity's/awarding body's record of taking cognizance of Labor Code violations in the preceding five years, including any withholding of funds from public works contractors:

(Attach additional sheets, if necessary.)

F. Identify the attorney or law firm available to provide legal support for the LCP, including handling of the LCP's responsibilities during the administrative review process set forth in Labor Code Section 1771.6.

Attorney/Law Firm Name

Address

Contact Person & Phone Number

- G. Attach to the application a proposed manual outlining the responsibilities and procedures of the LCP.
- H. Identify the method by which the LCP will notify the Labor Commissioner of willful violations as defined in Labor Code Section 1777.1(d):

(Attach additional sheets, if necessary.)

DATED: _____

Entity/Awarding Body Representative

Mail this form, with enclosures, to:

Office of the Director
DEPARTMENT OF INDUSTRIAL RELATIONS
455 Golden Gate Avenue, Suite 10616
San Francisco, CA 94102

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Appendix 2 Notice of Withholding of Contract Payments

The *Notice of Withholding of Contract Payments (NWCP)* is to be completed by the LCP and served on the contractor, any affected subcontractor, and any bonding company issuing a bond securing payment of wages on a public works project. On page 2 of the NWCP, the contractor and subcontractor are advised of their right to obtain review of the LCP's monetary assessment by filing a written request for review at the address designated by the LCP in the space provided. The LCP should insert in this space the identity and address of the individual the LCP has assigned the tasks of receiving requests for review and, in turn, providing the party requesting review with the notices they are entitled to under the law. On page 3 of the NWCP, the contractor and subcontractor are advised of their opportunity to informally settle any dispute they may have with the LCP's monetary assessment. Again, the LCP should designate in the space provided the identity and address of the individual the contractor should mail their written requests to for a settlement opportunity. This individual may or may not be the same individual the LCP chooses to receive the written requests for review.

In the DLSE's experience, nearly all contractors and subcontractors will request at least a settlement meeting, and will likely request formal review once an NWCP has been served upon them. If there is no request for formal review, the assessment becomes a final order and the withheld funds can be disbursed.

As mentioned above, the LCP's receipt of a written request for review triggers an obligation on the part of the LCP to complete and mail the two other forms attached as Appendix 3 and Appendix 4.

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

Labor Compliance Program

Review Office-Notice of Withholding of Contract Payments

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing within 20 days of the Labor Compliance Program's receipt of the written **Request for Review**.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee **to attempt to settle a dispute regarding the notice**. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to _____ at the following address:

Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

The Amount of Liquidated Damages Available Under this Notice is \$_____.

Distribution:

Prime Contractor
Subcontractor
Surety(s) on Bond

Appendix 3 Notice of Transmittal

The *Notice of Transmittal* must be completed and timely mailed by the LCP to the Department of Industrial Relations at the address indicated. Under the NWCP administrative review process in the labor code, once the contractor or subcontractor has requested review of the NWCP, it is the task of the DIR to provide the contractor a hearing with a presiding hearing officer. Consequently, the *Notice of Transmittal* is the tool utilized by the LCP to notify the DIR of its statutory obligation to begin the administrative review process and provide the contractor requesting review a hearing.

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments <hr/> <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Transmittal

To: Department of Industrial Relations
Office of the Director-Legal Unit
Attention: Lead Hearing Officer
P. O. Box 420603
San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated _____, postmarked
_____, and received by this office on _____.

Also enclosed please find the following:

- _____ Copy of Notice of Withholding of Contract Payments
- _____ Copy of Audit Summary

LABOR COMPLIANCE PROGRAM

By: _____

cc: Prime Contractor
Subcontractor
Bonding Company

Please be advised that the Request for Review identified above has been received and transmitted to the address indicated. Please be further advised that the governing procedures applicable to these hearings are set forth at Title 8, California Code of Regulations sections 17201-17270. These hearings are **not** governed by Chapter 5 of the Government Code, commencing with section 11500.

Appendix 4

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

This notice the LCP must complete and mail to the party requesting review once that request has been received by the LCP. This form, a *Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)*, simply satisfies the LCP’s statutory obligation to let the contractor and subcontractor know the materials contained in the LCP’s investigative file which support the LCP’s issuance of the assessment will be made available.

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments <hr/> <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To: Prime Contractor

Subcontractor

Please be advised that this office has received your **Request for Review**, dated _____, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. _____.

In accordance with Labor Code section 1742(b), this notice provides you with an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review, and the procedures for reviewing such evidence.

Rule 17224 of the Prevailing Wage Hearing Regulations provides as follows:

A(a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing of the Request for Review.

(b) An Enforcing Agency shall be deemed to have provided the opportunity to review evidence required by this Rule if it (1) gives the affected contractor or subcontractor the option at said party's own expense to either (i) obtain copies of all such evidence through a commercial copying service or (ii) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) The Enforcing Agency at its own expense forwards copies of all such evidence to the affected contractor or subcontractor.

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code Section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding.@

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

Attention: _____

Request to review evidence

To: _____

From: _____

Regarding Notice of Withholding of Contract Payments Dated _____

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

Phone No.: _____
Fax No.: _____

Appendix 5

Commonly Used Terms

Awarding body	Owner of project, body awarding contract
CAC.....	California Apprenticeship Council
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CPR	Certified payroll record
DAS.....	Division of Apprenticeship Standards
DIR.....	Department of Industrial Relations
DLSE.....	Division of Labor Standards Enforcement
DLSR	Division of Labor Statistics & Research
DSA.....	Department of State Architect
FBS.....	Fringe benefit statement
IOR.....	Inspector of Record, DSA assigned building inspector
JATC.....	Joint apprenticeship training committee
LCP	Labor compliance program
LEA.....	Local education agency
PW	Public works or prevailing wage, depending on context
PWD	Prevailing wage division
T&M.....	Time & material

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Appendix 6

Checklist of Labor Law Requirements

District Labor Compliance Program (Pursuant to CCR 16430)

The federal and state labor law requirements applicable to the contract are composed of but not limited to the following:

Payment of prevailing wage rates. The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay the specified general prevailing wage rates to all workers employed in the execution of the contract. The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts.

The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view.

Apprentices. It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project under Labor Code Section 1777.5.

Penalties. There are penalties required for contractor or subcontractor failure to pay prevailing wages (for nonexempt projects) and for failure to employ apprentices including forfeitures and debarment under Labor Code Sections 1775, 1777.7 and 1813.

Certified payroll records. Contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work, the straight time and overtime hours worked each day and each week, the fringe benefits, and the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired for the public works project under Labor Code Section 1776.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor or subcontractor or shall be furnished to any employee, or his/her authorized representative on request, according to Labor Code Section 1776.

Each contractor and subcontractor shall submit its certified payroll record to the district on a weekly basis. If there was no work performed during a given week, the certified payroll record shall be annotated: "no work" for that week.

There are penalties required for contractor/subcontractor's failure to maintain and submit copies of certified payroll records on request under Labor Code Section 1776 (g).

Nondiscrimination in employment. Employment discrimination is prohibited under Labor Code Sections 1735 and 1777.6, the government code, the public contracts code, and Title VII of the Civil Rights Act of 1964, as amended. All contractors and subcontractors are required to implement equal employment opportunity practices for women and minorities as delineated below:

Equal employment poster. The equal employment poster shall be posted at the job site in a conspicuous place, available to employees and applicants for employment and shall remain posted for the duration of the project.

Kickbacks prohibited. Contractors and subcontractors are prohibited from accepting, taking wages illegally or extracting “kickback” from employee wages under Labor Code Section 1778.

Acceptance of fees prohibited. Contractors or subcontractors are prohibited from accepting fees for registering any person for public work under Labor Code Section 1779 or for filling work orders on public works contracts pursuant to Labor Code Section 1780.

Listing of subcontractors. All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of 1 percent, according to government code section 4100 et seq.

Proper licensing. Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractor License Law found at business and professions code section 7000 et seq.

Unfair competition prohibited. Contractors and subcontractors are prohibited from engaging in unfair competition as specified under business and professions code sections 17200 to 17208.

Workers’ compensation insurance. Labor code section 1861 requires contractors and subcontractors be insured properly for workers’ compensation.

OSHA. Contractors and subcontractors are required to abide by the occupational, safety and health laws and regulations that apply to the particular construction project.

